

BEFORE THE HIMACHAL PRADESH ELECTRICITY REGULATORY COMMISSION

Vidyut Aayog Bhawan, Block No. 37, SDA Complex, Kasumpti, Shimla-09

CORAM: Hon'ble Sh. Devendra Kumar Sharma, Chairman
Hon'ble Sh. Yashwant Singh Chogal, Member (Law)
Hon'ble Sh. Shashi Kant Joshi, Member

Date of Order: 1st June, 2023

In the matter of finalization of the Himachal Pradesh Electricity Regulatory Commission (Terms and Conditions for Determination of Transmission Tariff) (Third Amendment) Regulations, 2023.

ORDER

The Himachal Pradesh Electricity Regulatory Commission (hereinafter referred as "the Commission" or "the HPERC") has framed the HPERC (Terms and Conditions for Determination of Transmission Tariff) Regulations, 2011 published in the Rajpatra, Himachal Pradesh, dated 2nd April, 2011 as amended from time to time (hereinafter referred as "Tariff Regulations, 2011" or "the said Regulations");

2. Para 5.3 of the National Tariff Policy, 2016 states that development of Intra-State Transmission System shall be executed through competitive bidding route provided for the projects costing above a Threshold Limit, which shall be decided by the State Commission;
3. In pursuance to Clause 5.3 of the National Tariff Policy, 2016 and all other powers enabling it in this behalf, the Commission, after following the due process of prior publication, has notified the threshold limit of Rs. 45 Crore on 21st May, 2022;
4. To incorporate the provisions pertaining to threshold limit of Rs. 45 Crore (Rupees Forty Five Crore) for development of Intra-State Transmission System to be executed through competitive bidding route in the said Regulations, the HPERC published the draft HPERC (Terms and Conditions for Determination of Transmission Tariff)(Third Amendment) Regulations, 2023 (hereinafter referred as "the draft Amendment Regulations") on 11.04.2023 in Rajpatra Himachal Pradesh in exercise of the powers conferred under Section 61, Sub-section (1) of Section 62, clauses (a) and (e) of Sub-section(1) of Section 86 and clauses (zd), (ze) and (zf) of Sub-section (2) of Section 181, of the Electricity Act, 2003 (36 of 2003) (hereinafter referred as "the Act").

5. As required under Sub-section (3) of the Section 181 of the Electricity Act, 2003, read with Section 21 of the General Clauses Act, 1897 (10 of 1897) and Rule 3 of the Electricity (Procedure for Previous Publication) Rules, 2005, the Commission invited public objections and suggestions by way of insertions in two Newspapers i.e. "Divya Himachal" and "Indian Express" on 14th April, 2023 and the full text of the draft Amendment Regulations was also made available on the Commission's website www.hperc.org. The last date for filing objections and suggestions in relation to the said draft Regulations was 18th May, 2023.
6. The Commission, vide letter no. HPERC-F(1)-3/2018-Vol-II-110-115 dated 17.04.2023, requested the major Stakeholders, including State Government, Directorate of Energy, Himachal Pradesh Power Transmission Corporation Limited, Himachal Pradesh Electricity Board Limited, Himachal Pradesh Power Corporation Limited and Consumer Representative to send their objections/ suggestions on the aforesaid Staff Paper on or before 18th May, 2023.
7. The Commission has received comments/suggestions on the draft Amendment Regulations from Himachal Pradesh Power Transmission Corporation Ltd. (HPPTCL) only.
8. **Consideration of written submissions of the stakeholder i.e. HPSEBL and Commission's analysis/view.-**

The suggestions of HPPTCL which have been considered to be relevant to the finalization of the amendment Regulations are discussed in following para:-

8.1 **Comments/suggestions:-**

(a) Threshold Value for TCB:-

The HPPTCL has submitted that the estimated cost of works in aggregate manner prepared based on cost (Prepared on 2016 cost basis) is worked out INR 76.31 Crore for Sub stations and INR 51.56 Crore for Lines on an average which in 2022 works out to INR 106.83 Crore for Sub stations and INR 72.18 Crore for Line on considering price escalation of approx. 40 % since 2016. Accordingly, the HPPTCL has submitted that threshold value shall be kept as INR 125 Crore for Sub stations and INR 100 Crore for Lines with the minor LILO portion considered as part of Sub station under threshold value of INR 125 Crore only.

Commission's View:-

The Commission has fixed the threshold limit of Rs. 45 Crore (rupees Forty Five Crore) after following due process of prior publication and has

notified the same on 21st May, 2022 after duly considering similar comments/suggestions received from the stakeholders including HPPTCL. The proposed amendment only aims to include the threshold limit already notified by the Commission in the Tariff Regulations, 2011 and, as such, the Commission feels that it may not be feasible to change the limit earlier notified on 21.05.2022.

In view of above, the Commission decides to finalize the proposal made in the draft amendment Regulations in relation to the proposed limit of Rs 45 Crore without any changes in order to encourage competition beyond this limit.

(b) Exclusion of works to be undertaken under TBCB:-

The HPPTCL has submitted that Himachal Pradesh, being a special category State, is in receipt of Externally Aided Funds from Central Government. In view of above and in order to protect the interest of the State, the HPPTCL has proposed to exclude such Schemes from execution under TBCB irrespective of value of work.

The HPPTCL has further submitted that the projects be executed under TBCB only if STU is having issues in raising funds for execution of works, otherwise the projects be executed under RTM and the same can be decided at the time of approval of CAPEX on case- to-case basis.

Commission's View:-

The Commission feels that ordinarily all Intra-State Transmission Projects above the threshold limit of Rs. 45 Crore, as envisaged in the proposal, should be developed through Tariff Based Competitive Bidding (TBCB for short) only. However, in case of exceptional/urgent circumstances or in case the circumstances so warrant, the Transmission Licensee shall have the option available to approach the Commission for obtaining its prior approval. The Commission shall take a view after doing prudence check and exercising due diligence.

In view of above, the Commission decides to finalize the proposal made in the draft amendment Regulations in relation to the proposed provisions without any changes.

(c) Pooling of Transmission Assets of HPPTCL:-

HPPTCL has intimated that presently it is raising bills to Long-Term customers based on ARR for 12 No. lines (Intra-state System) and

further, Transmission charges bills are being raised to other beneficiaries for other transmission assets based on utilization of projects on one-to-one basis. Thus, Long-Term charges and Short-term charges received by HPPTCL are not corresponding to same number of Transmission Projects which results in reimbursement of Short term charges to LTA customers as per the provisions of Tariff Regulations, 2011. This is further leading to litigations and Transmission Charges for various projects to be recovered by HPPTCL are not being recovered in totality, threatening financial viability of HPPTCL.

Accordingly, in order to socialize transmission charges of interconnected transmission system, the HPPTCL has requested for the pooling of transmission assets of HPPTCL.

Commission's View:-

The Commission observes that the comments/suggestions of the HPPTCL are not specific to the proposal being finalized through this Order. As such, the Commission decides to finalize the proposal made in the draft amendment Regulations without any changes on this account.

(d) Carrying Cost:

HPPTCL has informed that some of its assets have been put to use as on their respective COD, but in absence of Commission's approved Tariff, HPPTCL has to bear the cost towards managing working capital due to delay in tariff recoveries and it is becoming increasingly difficult for it to arrange working capital ensuring smooth operations. HPPTCL further submitted that the provisions regarding carrying costs have already been included by the HPERC in Tariff Regulations, 2011 under Regulation 10-A wherein carrying cost at the rate of one-year average MCLR + 300 basis points has been allowed to be considered as carrying cost for delayed and differential recoveries.

In view of above, HPPTCL has requested for necessary amendment in the Tariff Regulations, 2011 to allow charging of carrying cost from the beneficiary(ies) of the said asset(s) for the period starting from COD till the issuance of Bills.

Commission's View:-

The Commission observes that the comments/suggestions of the HPPTCL are not specific to the proposal being finalized through this Order. As such, the Commission decides to finalize the proposal made in the draft amendment Regulations without any changes on this account.

(e) Adjustment of STOA charges (non-tariff income) towards reduction in the transmission service charges payable by the long term and medium term users

HPPTCL has stated that as per Regulation 33 (4) of the Tariff Regulations, 2011, only 10% of the charges collected from the Short Term Open Access Customer are retained by the HPPTCL and balance 90% are considered as Non-Tariff income and adjusted towards reduction in the transmission service charges payable by the Long Term and Medium Term users. However, the said Regulation does not clarify the methodology for the manner in which balance 90% STOA charges are to be adjusted among Long Term and Medium Term users.

HPPTCL has submitted that the CERC (Sharing of Inter State Transmission Charges & Losses) Regulations, 2020 provides that the benefit of Short Term Open Access charges for each month shall be reimbursed in the following billing month to the concerned beneficiary. Therefore, the HPPTCL has requested to incorporate necessary amendments/guidelines in respect of methodology to be adopted by Transmission Licensee for adjustment of 90% of STOA charges (Non-Tariff income) towards reduction in the transmission service charges payable by the Long Term and Medium Term users.

Commission's View:-

The Commission observes that the comments/suggestions of the HPPTCL are not specific to the proposal being finalized through this Order. As such, the Commission decides to finalize the proposal made in the draft amendment Regulations without any changes on this account.

Taking the aforesaid into consideration, the draft amendment Regulations are finalized and approved as such, with need based consequential changes, and be notified as the Himachal Pradesh Electricity Regulatory Commission (Terms and Conditions for Determination of Transmission Tariff) (Third Amendment) Regulations, 2023, accordingly.

Place: Shimla.

Date: 01.06.2023.

Sd/- (Shashi Kant Joshi) Member	Sd/- (Yashwant Singh Chogal) Member (Law)	Sd/- (Devendra Kumar Sharma) (Chairman)
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